

Twelfth Kerala Legislative Assembly  
Bill No. 237

---

---

**THE KERALA AGRICULTURAL INCOME TAX  
(AMENDMENT) BILL , 2008**

---

---

©  
Kerala Legislature Secretariat  
2008

KERALA NIYAMASABHA PRINTING PRESS.

**Twelfth Kerala Legislative Assembly**  
**Bill No. 237**

**THE KERALA AGRICULTURAL INCOME TAX**  
**(AMENDMENT) BILL , 2008**

940/2008.

**Twelfth Kerala Legislative Assembly**

**Bill No. 237**

**THE KERALA AGRICULTURAL INCOME TAX  
(AMENDMENT) BILL, 2008**

**A**

**BILL**

*further to amend the Kerala Agricultural Income Tax Act, 1991.*

*Preamble.*—WHEREAS, it is expedient further to amend the Kerala Agricultural Income Tax Act, 1991 for the purposes hereinafter appearing ;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Agricultural Income Tax (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 1st day of April, 2008.

2. *Insertion of new section 37 C.*—In the Kerala Agricultural Income Tax Act, 1991 (15 of 1991) (hereinafter referred to as the principal Act), after section 37B, the following section shall be inserted, namely:—

“37C. *Reduction of arrears in certain cases.*—(1) Notwithstanding anything contained in this Act, or in any judgment, decree or order of any court, tribunal, or appellate authority, an assessee who is in arrears of tax or any other amount due under the Act relating to the period ending on 31st March, 2005, may opt for settling the arrears by availing reduction at the following rates:—

(a) in the case of demands relating to the period up to and including 31st March, 1991, a reduction of twenty five per cent for the principal tax amount, and complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ;

(b) in the case of demands relating to the period from 1st April, 1991 to 31st March, 1996, a complete reduction of the interest on the tax amount and for the amount of penalty and interest thereon ;

(c) in the case of demands relating to the period from 1st April, 1996 to 31st March, 2000 a reduction of ninety five per cent of the interest on the tax amount and for the amount of penalty and interest thereon ;

940/2008.

(d) in the case of demands relating to the period from 1st April, 2000 to 31st March 2005, a reduction of ninety per cent of the interest on the tax amount and for the amount of penalty and interest thereon.

(2) Notwithstanding anything contained in the Kerala Revenue Recovery Act, 1968 reduction of arrears under sub-section (1) shall be applicable to those cases in which revenue recovery proceedings have been initiated and the assessing authorities shall have the power to collect such amounts on settlement under sub-section (1) and where the amount is settled under sub-section (1) the assessing authorities shall withdraw the revenue recovery proceedings against such assesses which will then be binding on the revenue authorities and such assessee shall not be liable for payment of any collection charges.

(3) An assessee who wishes to opt for payment of arrears under this section shall make an application to the assessing authority in the prescribed form before 30th November, 2008, or on such date as may be notified by the Government.

(4) On receipt of an application under sub-section (3), the assessing authority shall work out the actual amount of tax and other amounts due from the assessee under sub-section (1) and shall intimate the amount to the assessee, and thereupon the assessee shall remit twenty-five per cent of the amount within 15 days of receipt of the intimation, and the balance amount in three equal monthly instalments from the subsequent month.

(5) If the assessee commits any default in payment of the instalments the reduction granted under sub-section (1) is liable to be revoked.

(6) No action under sub-section (5) shall be taken without giving notice to the assessee.

(7) If the arrears settled under this provision have been the subject matter of an appeal or revision, such appeal and revision may be continued and if the final orders of such appeal or revision results in the reduction of tax payable under this Act, the amount so reduced shall be refunded. But if, as the result of such appeal or revision, the tax payable under this Act is enhanced, the dealer shall pay such enhanced amount with interest thereon, in accordance with the provisions of this Act.”.

3. *Repeal and Saving.*—(1) The Kerala Agricultural Income Tax (Amendment) Ordinance, 2008 (39 of 2008) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

### STATEMENT OF OBJECTS AND REASONS

As on 31st December, 2007, the arrears of taxes due to be collected by the Commercial Taxes Department came to around Rupees 4,280 crores. Of this, around Rupees 1,900 crores remained stayed by various courts, appellate authorities etc., and around Rupees 1,600 crores were dues of various Public Sector Undertakings. It would take years to settle the cases and to collect the dues. In these circumstances, as per para 155 of the Budget Speech 2008-09, an amnesty scheme had been proposed for disposing of arrears of all taxes levied by the Commercial Taxes Department. As per the Kerala Finance Act, 2008, necessary provisions for the purpose had been incorporated in the Kerala Surcharge on Taxes Act, 1957, the Kerala General Sales Tax Act, 1963 and the Kerala Tax on Luxuries Act, 1976. But no provision to this effect had been incorporated in the Kerala Agricultural Income Tax Act, 1991. Hence, Government had decided to insert a new section 37C in the Kerala Agricultural Income Tax Act, 1991 for the purpose. As the Legislative Assembly of the State of Kerala was not in session and the proposals had to be given effect to immediately, the Kerala Agricultural Income Tax (Amendment) Ordinance, 2008 (39 of 2008) was promulgated by the Governor on the 22nd day of October, 2008 and was published in the Kerala Gazette Extraordinary No. 2292 dated 24th October, 2008.

The Bill seeks to replace Ordinance No. 39 of 2008 by an Act of the State Legislature.

### FINANCIAL MEMORANDUM

The Bill if enacted and brought into operation would not involve any additional expenditure from the Consolidated Fund of the State of Kerala.

### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill through which it is proposed to insert a new section 37C to the Kerala Agricultural Income Tax Act, 1991, seeks to empower the Government to prescribe the Form for making application to opt for settling the arrears by availing reduction and also to notify the extended date for filing such an application.

DR. T. M. THOMAS ISSAC